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COMMITTEE ON ECONOMIC, SOCIAL
AND CULTURAL RIGHTS

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLES 16 AND 17 OF THE COVENANT

Concluding observations

SAINT VINCENT AND THE GRENADINES

1. The Committee considered the state of implementation by Saint Vincent and the Grenadines of the economic, social and cultural rights contained in the Covenant at its forty-fifth meeting on 28 November 1997 and adopted the following concluding observations:

A. Review of the implementation of the Covenant in relation to States parties which have failed to report

2. At its seventh session, the Committee on Economic, Social and Cultural Rights decided to proceed to a consideration of the state of implementation of the International Covenant on Economic, Social and Cultural Rights in a number of States parties which, despite many requests to do so, had not fulfilled their reporting obligations under articles 16 and 17 of the Covenant.

3. The purpose of the reporting system established by the Covenant is for the States parties to report to the competent monitoring body, the Committee on Economic, Social and Cultural Rights, and through it to the Economic and Social Council, on the measures which have been adopted, the progress made, and the difficulties encountered in complying with the rights recognized in the Covenant. Non-performance by a State party of its reporting obligations, in addition to constituting a breach of the Covenant, creates a serious obstacle to the fulfilment of the Committee's functions. Nevertheless, the Committee has to perform its supervisory role in such a case and must do s on the basis of all reliable information available to it.

4. In a situation where a Government has not supplied the Committee with any information as to how it considers its own compliance with its obligations under the Covenant, the Committee has to base its observations on a variety of materials stemming from both intergovernmental and non-governmental sources. While the former provide mainly statistical information and apply important economic and social indicators, the information gathered from the relevant academic literature, from non-governmental organizations and from the press tends, by its very nature, to be more critical of the political, economic and social conditions in the countries concerned. Under normal circumstances, the constructive dialogue between reporting State party and the Committee will provide an opportunity for the Government to voice its own view, and to seek to refute any criticism and convince the Committee that its policies are in conformity with the requirements of the Covenant. Consequently, if a State party does not submit a report and does not appear before the Committee, it deprives itself of the possibility to set the record straight.

B. Introduction

5. Saint Vincent and the Grenadines has been a party to the International Covenant on Economic, Social and Cultural Rights since 9 November 1981. Since then, it has not submitted a single report. The Committee strongly urges the Government of Saint Vincent and the Grenadines to fulfil its reporting obligations as soon as possible, so that the Covenant can be given full effect for the benefit of the people of Saint Vincent and the Grenadines. The Committee emphasizes that it considers the non-performance by Saint Vincent and the Grenadines of its reporting obligations not only as a violation of the Covenant, but also as a grave impediment to the adequate application of the Covenant.

C. Factors and difficulties impeding the implementation of the Covenant

6. The Committee takes note of the fact that fulfilment by Saint Vincent and the Grenadines of its obligations arising from the Covenant on Economic, Social and Cultural Rights cannot be evaluated without taking into consideration the political, economic and social conditions in which the country finds itself at present.

7. In particular, the Committee notes that, despite efforts undertaken recently by the authorities to diversify the economy and reduce its dependence on banana production earnings, the contribution of banana production to total exports was still 63.8 per cent in 1992 and the banana industry still employed 52 per cent of the workforce in 1993/94, making the development of Saint Vincent and the Grenadines' economy particularly sensitive to international market prices. The Committee also notes that a ruling by a Dispute Settlement Body of the World Trade Organization in mid-1997 which ended the preferential banana trade regime between the Windward Islands and the European Union may result in severe economic and social disruption in Saint Vincent and the Grenadines, and thus have adverse consequences on its ability to implement certain provisions of the Covenant, including articles 6 and 11.

8. The Committee also notes that the islands are frequently afflicted by natural disasters, such as volcanic eruptions (for instance, in 1979, the eruption of the Soufrière forced thousands of people to be evacuated) and hurricanes (in 1987, hurricane Emily destroyed 70 per cent of the banana crop), with significant economic and social costs.

D. Positive aspects

9. The Committee notes that Saint Vincent and the Grenadines has achieved satisfactory economic and social indicators (according to the UNDP Human Development Report, Saint Vincent and the Grenadines ranks among countries with a high development index), and that efforts have been made to diversify sources of revenue from tourism, light manufacturing, construction and wholesale and retail trade, with a view to reducing the economy's vulnerability to international market fluctuations.

10. It also notes that numerous initiatives have recently been undertaken by the Department of Women's Affairs in the field of educational and other programmes aimed at promoting family life and the respective roles of men and women in society, as well as at addressing the problem of teenage pregnancies. The Committee welcomes the setting up of a family court under the Domestic Violence Act of 1995 to deal specifically and speedily with cases of domestic violence, which, according to the State party's report to the Committee on the Elimination of Discrimination against Women, is a major problem in Saint Vincent and the Grenadines. The passing of an Equal Pay Act and the setting up of a Land Reform Programme to assist rural women to have access to more land and to broaden their economic base are also welcome developments.

11. With respect to article 9 of the Covenant, the Committee notes with appreciation the increase in expenditures on social security from 2.6 per cent of total government expenditures in 1980-1985 to 8.3 per cent in 1989-1994, according to the World Bank's Social Indicators of Development 1996.

12. With respect to article 12 of the Covenant, the Committee welcomes efforts made to develop the health-care system throughout the country. In particular, it welcomes the development of local health systems through the establishment of district health teams and health committees in all geographical areas of the country. The Committee further welcomes developments in relation to ante-natal and post-natal health care, prevention and information programmes on AIDS, through the National AIDS/Sexually Transmitted Disease Prevention and Control Programme set up in 1989, and family planning. The Committee welcomes the fact that the population per physician decreased from 5,500 in 1970-1975 to 2,619 in 1989-1994, that the neonatal and infant mortality rates are gradually declining and that the immunization coverage is nearly 100 per cent.

E. Principal subjects of concern

13. As may be inferred from the core document and the State party's report to CEDAW, the rights enshrined in international human rights instruments cannot be directly invoked before or interpreted by the courts but can only be enforced where they are incorporated in comparable provisions of the Constitution or a statute. The Committee consequently expresses concern about

the implementation and protection of those rights recognized in the Covenant which are not incorporated in the Constitution or statute, since there is no means of redress or remedy in case of violation of those rights. The Committee also notes that, although the State party has been a member of the International Labour Organization since 1985, it has yet to ratify any ILO convention.

14. With respect to the general provisions of the Covenant, the Committee notes with concern that, according to the findings of the Committee on the Elimination of Racial Discrimination, there are occurrences of racial discrimination in Saint Vincent and the Grenadines, and that members of certain minorities, such as the Amerindians and Asians, form a disproportionate part of the lower-income levels. It also notes that disabled people are effectively discriminated against by the absence of specific legislation to cater for their special needs and to provide them with appropriate facilities.

15. With respect to article 3 of the Covenant, the Committee notes that, despite efforts by the Government, in particular at the legislative level, discrimination against women is still a major problem. In particular, it notes that, according to the State party's report to CEDAW, women are accorded low wages, low status and little opportunity for developing themselves economically. Moreover, the Committee notes that obstacles remain for women at the tertiary education level, that occupational segregation in the labour market persists, in particular at the decision-making level and in the public sector, and that women have limited access to credit and land ownership. Moreover, the Committee expresses concern about the incidence of domestic violence which, according to information received from non-governmental organizations, seems to be on the rise.

16. With respect to specific provisions of the Covenant, the Committee expresses its concern about the high official rate of unemployment in Saint Vincent and the Grenadines (19.8 per cent in 1991 - 22.1 per cent for women and 18.4 per cent for men). The lack of information on measures taken by the Government in accordance with article 6, paragraph 2, of the Covenant is thus a subject of concern for the Committee.

17. With respect to article 7 of the Covenant, the Committee expresses concern that, according to reports available to it, legislation in respect of occupational safety and health is significantly outdated. It also notes that the State party, in its report to the CEDAW, recognized that, due to financial constraints within the Ministry of Labour, labour inspections are not efficiently and regularly conducted and that employers do not always report accidents and occupational diseases to Labour Department officers, as they are required to do under the Accidents and Occupational Diseases (Notification) Act. Furthermore, according to information available to the Committee, the current minimum wage is insufficient to provide a decent standard of living, and the Wages Council has not reviewed the minimum wage for more than seven years, in spite of its legal obligation to do so every two years.

18. The Committee further notes with concern that no law has yet been passed to recognize the right of workers to form and join trade unions, to organize and to strike, and that as a consequence, the implementation of the rights under article 8 of the Covenant is left to the good will of employers.

19. With respect to the right to social security, the Committee expresses concern about the fact that employers do not comply with their legal obligation to send information and contributions for their employees to the National Insurance Scheme (NIS), and about the high incidence of failure of employers to register domestic workers under the scheme. Furthermore, it notes the absence of provision for registration of self-employed persons under the NIS, and that, although the NIS provides for benefits to be paid in case of sickness, invalidity, retirement and death, no provision is made for compensation in case of workplace accidents.

20. Moreover, the Committee is concerned about the lack of social protection of working minors, due to the discrepancy between the minimum age for employment (16) and the minimum age to receive a national insurance card (18) under the NIS.

21. The Committee also expresses concern about the absence of a comprehensive scheme for maternity leave, with the result that not all female workers benefit from such leave.

22. With respect to article 11 of the Covenant, the Committee notes with concern that the number of squatter households has grown rapidly in Saint Vincent and the Grenadines in recent years, and that many squatters reside in dwellings which fall short of the conditions listed in paragraph 8 of the Committee's General Comment No. 4. The Committee notes that the absence of a national housing policy and the halt of all public housing construction have aggravated these problems.

23. The Committee also notes with regret reports received of occurrences of forced evictions, in particular a case where 150 persons were forced to leave their traditional homes and land as a result of the construction of a cruise ship berth. The Committee was informed that although the persons thus evicted received some cash compensation, they were not offered alternative accommodation. The Committee recalls in this respect its General Comment No. 7.

24. The Committee also notes with concern that the cost of food and rent has risen considerably higher than the general consumer price index between 1990 and 1995 and that, according to information received, 10.8 per cent of all households derive their domestic water supply from springs, rivers, streams and other communal catchments.

25. In view of the high rate of unemployment in Saint Vincent and the Grenadines, the Committee expresses the hope that the Government will shortly be able to establish a scheme for the provision of unemployment benefits.

26. With respect to the right to health, the Committee notes with concern the high incidence of pregnancies among females of school age (between 1988

and 1991, 24 per cent of all births were to teenage mothers), and underlines that such pregnancies often have adverse consequences on the health of the child and of the mother and on the latter's ability to continue her studies.

27. Concerning the right to education, the Committee notes with concern that, as mentioned by the State party in its report to CEDAW, there is no legal requirement that children attend school. It also expresses concern about reports received from non-governmental organizations on the lack of teachers and teaching materials, notably at the primary level, on the recent significant increase in educational fees, as well as on the insufficiency of facilities at the post-secondary level of education. Moreover, the recent economic downturn which affects banana farmers in particular, has led to a situation in which more and more children do not attend school, thus affecting those children's right to compulsory primary education. Furthermore, the Committee views with concern the lack of literacy programmes for adults, while the appointment of the Adult Education Coordinator is welcomed.

F. Suggestions and recommendations

28. The Committee reiterates its request that the Government of Saint Vincent and the Grenadines actively participate in a constructive dialogue with the Committee on how the obligations arising from the International Covenant on Economic, Social and Cultural Rights can be fulfilled in a more adequate manner. It draws the Government's attention to the fact that the Covenant creates a legal obligation for all States parties to submit their initial and periodic reports and that Saint Vincent and the Grenadines has been in breach of this obligation for many years.

29. The Committee recommends that the Government of Saint Vincent and the Grenadines avail itself of the advisory services of the Office of the United Nations High Commissioner for Human Rights in order to enable it to submit as soon as possible a comprehensive report on the implementation of the Covenant in conformity with the Committee's revised guidelines regarding the form and contents of reports (E/1991/23, annex IV) and with particular emphasis on the issues raised and concerns expressed in the present concluding observations. The Committee also encourages the Office of the High Commissioner for Human Rights, through its programme of advisory services and technical assistance, to make expert assistance available to the Government for the purpose of formulating policies on economic, social and cultural rights and developing the implementation of coherent and comprehensive plans of action for the promotion and protection of human rights, as well as for developing adequate means of evaluating and monitoring their realization.

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UNDER ARTICLES 16 AND 17 OF THE COVENANT

Concluding observations of the Committee on Economic,
Social and Cultural Rights

LUXEMBOURG

1. At its 48th and 49th meetings, held on 2 December 1997, the Committee considered the second periodic report of Luxembourg on the rights covered by articles 1 to 15 of the Covenant (E/1990/6/Add.9) and adopted 1/ the following concluding observations.

A. Introduction

2. The Committee expresses its appreciation to the State party for its submission of its second periodic report, which complied with the guidelines regarding the form and contents of reports to be submitted by States parties. Nevertheless, it regrets the delay in the State party's submission of its report. The Committee also appreciates the very detailed additional information provided in response to the written list of questions. It welcomes the high-level delegation, with which it engaged in an open and constructive dialogue.

1/ At its 54th meeting, held on 5 December 1997.

B. Positive aspects

3. The Committee notes with appreciation the State party's continuing efforts to comply with its obligations under the International Covenant on Economic, Social and Cultural Rights through its law, policies, programmes, and administrative measures.

4. The Committee notes with satisfaction the existence of a comprehensive social security scheme and the efforts undertaken by the State party to improve and update its legislation with regard to economic and social rights, the introduction of a dependant's insurance, as well as the drafting of a law guaranteeing enjoyment of the right to health care.

5. The Committee welcomes the establishment in 1995 of the Tripartite Coordination Committee as a mechanism designed to promote social peace and stability. The Committee further notes the State party's efforts to address the problems of rising unemployment.

6. The Committee notes the large number of foreigners residing in the State party and welcomes the measures taken by the authorities to ensure the enjoyment of their economic, social and cultural rights.

C. Factors and difficulties impeding the implementation of the Covenant

7. The Committee notes the absence of any significant factors or difficulties preventing the effective implementation of the Covenant in Luxembourg.

D. Principal subjects of concern

8. The Committee is concerned that the Covenant has not been given the status of domestic law, and that there are no judicial decisions relating to its application by domestic courts. Therefore, jurisprudence on the implementation of the provisions of this treaty in Luxembourg is lacking.

9. The Committee expresses its concern that a clear definition of the principle of gender equality is not expressly entrenched in the Constitution and notes the persistence of inequitable gender disparities, particularly in conditions of work and of salary scales in the private sector.

10. The Committee notes with concern that the provisions recognized by ILO Conventions Nos. 77 and 78 concerning medical examination of young persons in industrial and non-industrial occupations have not been fully incorporated in domestic legislation, especially in relation to the regulation of employment of young workers in domestic service and agriculture.

11. The Committee is concerned about the absence of a comprehensive and specific legal framework that promotes and protects the rights of persons with disabilities.

12. The Committee notes with concern that the Civil Code, which maintains a clear distinction between "legitimate" and "natural" children, discriminates against children born out of wedlock.

13. The Committee is concerned about the absence of a comprehensive programme to combat all forms of sexual exploitation and abuse of children and adolescents.

14. The Committee notes with concern the occurrence in the State party of adolescent health problems, due in particular to drug abuse, and is alarmed about the high incidence of suicide among young people.

15. The Committee is concerned by the absence of specialized geriatric doctors and facilities to addresss the problems of the large ageing population within the State party.

16. The Committee is concerned about the high drop-out rates among the youth of secondary school age.

17. The Committee is also concerned about the absence of human rights education in the school curricula and the low level of awareness regarding the Covenant, especially among the judiciary and within professional groups, among NGOs and among the general public.

E. Suggestions and recommendations

18. The Committee recommends that the State party take all appropriate measures to ensure equal treatment of men and women in employment, especially in the private sector. Furthermore, the Committee encourages the State party to pursue its intention to ratify ILO Convention No. 111 relating to discrimination in employment.

19. The Committee recommends that the State party take all legal measures to ensure that the provisions of ILO Conventions Nos. 77 and 78 are fully recognized by domestic law and are implemented.

20. The Committee recommends that the State party's draft law on the rights of persons with disabilities should be adopted to enhance the promotion and protection of their fundamental rights.

21. The Committee strongly recommends that any existing distinction in the Civil Code regarding children born out of wedlock be eliminated.

22. The Committee recommends that the State party adopt more effective legislation to prevent and protect children and adolescents from all forms of sexual exploitation and abuse.

23. The Committee recommends that the State party continue its efforts to prevent and combat drug abuse and suicide among the youth and, where necessary, reinforce existing measures.

24. The Committee recommends that the State party engage in a review process with a view to decreasing the high number of school drop-outs. The Committee further encourages the State party to adopt the draft law guaranteeing the right to continuing education.

25. In light of the United Nations Decade for Human Rights Education, the Committee encourages the State party to include human rights education in the school curricula. It further recommends that the State party undertake measures to educate the judiciary, professional groups, NGOs and the general public about the provisions of the Covenant.

26. Finally, the Committee recommends that the concerns expressed in the present concluding observations, as well as the issues raised during the discussion of the second periodic report which remained unanswered, be addressed in the State party's third periodic report, and it urges the State party to disseminate widely the present concluding observations adopted by the Committee following its consideration of the State party's second periodic report.